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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/553,923 04/20/00 HUNTER

J LABC.69892

EXAMINER

QM02/0308

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KANSAS CITY MO 64105-2118

JOYCE, H ART UNIT	PAPER NUMBER
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3749
DATE MAILED:

03/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/553,923

Applicant(s)

HUNTER ET AL.

Examiner

Harold Joyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 35 is/are rejected.
- 7) ☒ Claim(s) 33 and 36 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Landy or Smith et al. in view of the European patent. Landy or Smith et al. discloses the claimed invention except for the curved sash grill. The European patent teaches that it is known to provide a extractor with a curved sash grill as set forth at the Synopsis. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the sash grill of Landy or Smith et al. to be curved, as taught by the European patent in order to provide smooth air flow into the work area.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Landy or Smith et al. in view of the European patent as applied to claim 1 above, and further in view of Truhan. Further, Landy or Smith et al. discloses the claimed invention except for the side trim panel being at an obtuse angle to the side wall. Truhan teaches that it is known to provide a side trim panel at an obtuse angle to the side wall as set forth shown at 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the side trim panel of Landy or Smith et al. to be at an obtuse angle to the side wall, as taught by Truhan in order to promote smooth flow.

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4. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Landy or Smith et al. in view of Truhan. Landy or Smith et al. discloses the claimed invention except for the side trim panel being at an obtuse angle to the side wall. Truhan teaches that it is known to provide a side trim panel at an obtuse angle to the side wall as set forth shown at 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the side trim panel of Landy or Smith et al. to be at an obtuse angle to the side wall, as taught by Truhan in order to promote smooth flow.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Landy or Smith et al. in view of Truhan as applied to claim 8 above, and further in view of the European patent. Further, Landy or Smith et al. discloses the claimed invention except for the claimed handle. The European patent teaches that it is known to provide a sash with a handle with a forwardly aligned stream face as set forth at the Synopsis. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the sash of Landy or Smith et al. with the claimed handle, as taught by the European patent in order to provide smooth air flow into the work area. Additionally, Landy or Smith et al. discloses the claimed invention except for the curved sash grill. The European patent teaches that it is known to provide a extractor with a curved sash grill as set forth at the Synopsis. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the sash grill of Landy or Smith et al. to be curved, as taught by the European patent in order to provide smooth air flow into the work area.

6. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tipton in view of Fowler, Jr. Tipton discloses the claimed invention except for the pressure gage located

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in the work space. Fowler, Jr. teaches that it is known to provide the control apparatus with a pressure gauge as set forth at column 3, line 66 to column 4, line 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cabinet of Tipton with a pressure gauge, as taught by Fowler, Jr. in order to determine if the filter is dirty. Note, it is a matter of design choice as to the location of the pressure gauge relative to the cabinet.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 15, 21, 22 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Arhex et al.

9. Claim 30 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith et al.

Claim Rejections - 35 USC § 103

10. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. Smith et al. discloses the claimed invention except for the round apertures of varying diameters in each side panel. It would be an obvious duplication of parts to provide apertures on each side wall. Further, it would have been an obvious matter of design choice for the apertures to be round and of varying shape, since applicant has not disclosed that round aperture of varying shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with uniform rectangular apertures.

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11. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Truhan. Smith et al. discloses the claimed invention except for associated exhaust control system and the round apertures of varying diameters in each side panel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cabinet of Smith et al. with exhaust control system, as taught by Truhan in order to exhaust externally of the room. Further, it would be an obvious duplication of parts to provide apertures on each side wall. Further, it would have been an obvious matter of design choice for the apertures to be round and of varying shape, since applicant has not disclosed that round aperture of varying shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with uniform rectangular apertures.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 112

13. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is insufficient structure to support the function "said blower being ... work area" in claim 1, lines 6-9 and the remaining above listed independent claims. In claim 2, there is no antecedent basis for "said sash foil". In claim 4, there is no antecedent basis for "said first perforations". In claim 11, lines 13 and 14, "wherein any leaks ... work area" cannot be understood.

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Allowable Subject Matter

14. Claims 33 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Objections

15. Claim 7 is objected to because of the following informalities: The word "improved" is redundant because it is inherent that the air flow is improved. Appropriate correction is required.

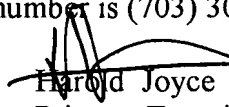
Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (703) 308-0274. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3588 for regular communications and (703) 308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Harold Joyce
Primary Examiner
Art Unit 3749

HJ
March 3, 2001